IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.2738 OF 2019
C/W
CRIMINAL PETITION NO.1233 OF 2021

IN CRL.P NO.2738/2019:

BETWEEN:

1. SIC STOCKS AND SERVICES PVT. LTD.,
NO.501, PRESTIGE MARIDIAN II,
NO.30, M.G.ROAD,
BENGALURU-560001
REPRESENTED BY ITS DIRECTOR
SIDHARTH HANDA.

2. DR. NUPUR HANDA,
AGED ABOUT 36 YEARS,
NO.501, PRESTIGE MARIDIAN II,
NO.30, M.G. ROAD,
BENGALURU-560001.

3. SIDHARTH HANDA,
AGED ABOUT 42 YEARS,
NO.501, PRESTIGE MARIDIAN II,
NO.30, M.G. ROAD,
BENGALURU-560001.

4. RAJINDER HANDA (RETD.),
AGED ABOUT 76 YEARS,
NO.501, PRESTIGE MARIDIAN II,
NO.30, M.G. ROAD,
BENGALURU-560001.

...PETITIONERS

(BY SRI. NAIK ASHOK KASHINATH, ADVOCATE)

AND:

1. THE STATE BY
   ASHOK NAGAR POLICE STATION,
   BENGALURU,
   NOW BEING INVESTIGATED BY CCB,
   REP. BY STATE PUBLIC PROSECUTOR,
   KARNATAKA HIGH COURT,
   BENGALURU.

2. ASHWIN DIGAMBAR RAIKAR,
   NO.B 1003, PURVA HEIGHTS,
   BILEKAHALLI, BANNERGHATTA ROAD,
   BENGALURU, KARNATAKA-560 076.

…RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1;
VIDE ORDER DATED 25.10.2023,
SRI. S. SRIRANGA, SENIOR COUNSEL FOR
SMT. SUMANA NAGANAND, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE FIR AGAINST THE ACCUSED NO.1, 2, 3 AND 4 IN ASHOK NAGAR POLICE STATION, IN CR.NO.180/2018 DATED 27.04.2018 UNDER SECTIONS 409, 420, 467, 468, 471 AND 120(B) OF IPC ON THE FILE OF IV ACMM COURT, BENGALURU.

IN CRL.P NO.1233/2021:

BETWEEN:

1. SIC STOCKS AND SERVICES PVT. LTD.,
   NO.501, PRESTIGE MARIFDIAN II,
   NO.30, M.G.ROAD,
   BENGALURU -560001,
   REPRESENTED ITS DIRECTOR,
   SIDHARTH HANDA.

2. SIDHARTH HANDA,
   AGEED ABOUT 45 YEARS,
   S/O LATE R. HANDA,
   NO.501, PRESTIGE MARIDIAN II,
   NO.30, M.G. ROAD, BENGALURU-560001.

3. DR. NUPUR HANDA,
NO.501, PRESTIGE MARIDIAN II,
NO.30, M.G. ROAD,
BENGALURU-560001

...PETITIONERS

(BY SRI. NAIK ASHOK KASHINATH, ADVOCATE)

AND:

1. THE STATE BY
ASHOK NAGAR POLICE STATION,
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENGALURU-560001.

2. ASWINI D. RAIKAR,
MANAGING DIRECTOR,
M/S SILICON DESIGNS (M) INDIA PVT. LTD,
NO.43, 6TH FLOOR,
BLOCK A, 27TH CROSS,
BRIGADE SOFTWARE PARK,
BANASHANKARI 2ND STAGE,
BENGALURU-560050.

...RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1;
SRI. S. SRIRANGA, SENIOR COUNSEL FOR
SMT. SUMANA NAGANAND, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE FIR AGAINST ACCUSED NO.1, 2 AND 3 IN ASHOK NAGAR POLICE STATION, IN CR.NO.404/2018 DATED 03.11.2018 UNDER SECTIONS 409, 420, 468, 471, 120B OF IPC, ON THE FILE OF THE 4TH ACMM COURT AT BENGALURU CITY.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 21.09.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

CAV ORDER

Heard the learned counsel for the petitioners, the learned High Court Government Pleader appearing for respondent No.1/State and the learned Senior Counsel appearing for respondent No.2/complainant.

2. The prayer sought in Crl.P.No.2738/2019 is to quash the FIR against accused Nos.1 to 4, in Ashok Nagar Police Station, in Crime No.180/2018 dated 27.04.2018, under Sections 409, 420, 467, 468, 471 and 120B of IPC.

3. The prayer sought in Crl.P.No.1233/2021 is to quash the FIR against accused Nos.1 to 3, in Ashok Nagar Police Station, in Crime No.404/2018 dated 03.11.2018, under Sections 409, 420, 468, 471 and 120B of IPC.

4. The factual matrix of the case in Crl.P.Nos.2738/2019 and 1233/2021 are that based on the complaint filed by one Mr. Ashwin Raikar, Ashok Nagara Police have registered a case against the respective accused persons in Crime No.180/2018 on 27.04.2018 and in Crime No.404/2018 on 03.11.2018, on the allegations made against them in both the cases that accused No.1 and others with a

common intention allegedly have committed offences under Sections 409, 420, 468, 471, 120B read with 34 of IPC. The copy of the FIR and the complaint are produced as Annexures-A and B. It is contended that they came to know about the complaint filed by the complainant only after receiving a notice from the Central Crime Bengaluru, dated 09.11.2018 for appearing before the Investigating Officer on 13.11.2018, i.e., Annexures-C, D and E.

5. The main allegation is that accused No.1 company is in the business of stock broking and opened trading account in stock trading, of Sri Ashwin Raikar, assuring him of profit in the trading since 2012 and till now made to buy shares and allegedly in some transactions showing false account taken more amount than to be collected and have deceived and that having submitted forged documents to the BSE, resulting a loss. It is contended that a reading of the complaint reveals that there is a prima facie allegation against M/s. SIC Stocks and Services Pvt. Ltd. i.e., accused company, represented by accused Nos.2, 3 and 4 and so also accused Nos.2 and 3 in other complaint. When the police have registered the FIR based on the complaint for the above offences, the petitioners have approached this Court considering the allegations made in

Annexure-B in both the petitions since allegations are similar in both the cases with regard to causing loss to the complainant.

6. The main contention of the learned counsel for the petitioners before this Court in these petitions is that the transactions are purely of civil nature and pertains to commercial transactions, which is required to be resolved as SEBI guidelines by approaching within stipulated time. The other contention is that the transaction pertains to the period of 2012-13 and the very initiation of criminal prosecution is barred by law of limitation since the complaint is filed in 2018. The counsel further contend that the complainant having suffered an order from the Investor Grievance Redressal Committee, now misusing the criminal law. It is also contend that the transaction is purely commercial transaction particularly pertaining to 2012 and same was done with sufficient knowledge and acceptance of the complainant during 2012. Thus, the delayed action by the complainant is an abuse of process. The alleged transactions are made on the basis of self-created calculations with the help of stolen data without support of any documentary evidences and all the transactions are cooked up and generated by himself in collusion with ex-employee of the petitioners.

7. The counsel also contend that the complainant has been doing Forum Shopping by initially approaching SEBI, then NSE, BSE, then resorting to stealing of data from the petitioners' office and now resorted to criminal complaint. A direction was issued by the Office of Commissioner of Police to transfer the case to CCB when the case was registered by Ashok Nagara Police. Thus, even before investigating a civil matter pertaining to 2012-2015 was moved to CCB and the same is an abuse of process. It is contended that complainant has again approached invoking arbitration clause and arbitration proceedings have been initiated and when the clause is there in the agreement with regard to the arbitration proceedings, ought not to have resorted to criminal proceedings. The invoking of offences under Sections 409, 420, 467, 468, 471 and 120B of IPC are nothing but a manipulated version in the complaint only with an intention to pour the personal grudges to wreck vengeance.

8. The counsel also, apart from the grounds urged in the petitions, reiterated that the very company itself is not in existence. The fact that civil suit also pending and the same is also not in dispute. The counsel also would submit that when already approached IGRC, PSC and Arbitration and Arbitration

also held that barred by limitation and again approached the Appellate jurisdiction of Arbitration re-agitating the issue invoking the criminal jurisdiction is an abuse of process. The counsel also contend that company has already been dissolved, thus, cannot continue the criminal proceedings under Section 164 of Companies Act as no legal status to the company. The counsel contend that in complaints dated 27.04.2018 and 03.11.2018 respectively, suppressed the fact of no legal entity. The decisions taken in all other Forums also very clear that no case is made out and only with an oblique motive complaint is filed with regard to the exorbitant charges and the collecting of the amount.

9. The counsel also produced the additional documents before the Court in both the cases and reiterated the same grounds in both the petitions since similar grounds are also urged in other petition i.e., Crl.P.No.1233/2021. The additional documents are downloaded from Ministry of Company Affairs portal showing the status of the complainant M/s Silicon Designs (M) India Private Limited; copies of two complaints mail correspondences dated 13.02.2018 and 14.02.2018; so also the KYC document A-300, S300; Statement for the period 01.04.2017 to 30.04.2017 and document produced by the

respondent said to have been transferred AEH 30000 by SIC Stocks and Services, the petitioner to the respondent; copy of the Arbitration Award 7/2019 dated 11.07.2019 subsequent to the filing and also the Appellate Arbitration Award Reference No.4A/2019 dated 05.12.2019 and also the copy of the Arbitration Award No.8/2019 dated 10.07.2019; copy of the Appellate Arbitration Award No.5A/2019 dated 05.12.2019 and copy of the petition filed by Silicon before the Commercial Court which is pending vide 125/2010 and copy of the petition by Ashwin Raikar before the Commercial Court pending vide 370/2019.

10. The counsel referring these documents would contend that all efforts made by the complainant has failed and initiation of criminal proceedings are an abuse of process.

11. Per contra, the learned counsel appearing for the respondent/complainant brought to notice of this Court the statement of objections filed in Crl.P.No.2738/2019 and also other petition in Crl.P.No.1233/2021 wherein specific preliminary objections taken that criminal complaint is not maintainable is not correct. The counsel would contend that the claim is barred by limitation and the same has not been

rejected by the arbitral tribunal as claimed by the petitioners and not indulged in forum shopping as contended. It is contended that it is settled law that a complaint need not be an encyclopedia which discloses all details relating to the offence, thus, the complaint cannot be quashed if there is a prima facie material on record and the basic ingredients of an offence are made out. Respondent No.2 has shown the modus operandi of the petitioners along with relevant facts and figures as to how he was induced to invest huge sums of money. Inherent power under Section 482 is also very clear that when the ingredients of the offences are invoked, cannot be quashed.

12. Without prejudice to the preliminary objections, it is contended that both the petitioner Nos.2 and 3 and respondent No.2 are known to each other more than 12 years. In the year 2012, petitioner Nos.2 and 3 approached respondent No.2 to invest in stocks with petitioner No.1 as his broker and respondent No.2 was assured best professional and ethical services at a brokerage of 0.25% on all the trades i.e., purchase and sale of shares. Petitioner No.1 was required to furnish a contract note for every transaction which was undertaken on behalf of respondent No.2. The counsel also vehemently contend that petitioners have purposely opened 3

trade accounts and fails to issue the contract notes and there is complete violation of SEBI circulars and without any other alternative, has filed the complaint.

13. The counsel also vehemently contend that in the complaint specific accusations are made at Annexure-B and counsel would contend that in both the petitions similar grounds are urged by the petitioners and specific allegations are made that petitioners had wrongfully and dishonestly levied additional charges in the ledger entries and had misappropriated huge amounts of money. Hence, specific allegations are made with regard to the ingredients of the offences and caused the loss. In the complaint also set out in detail how the petitioners have played the fraud and enriched in violation of the stock exchange rules and denied each and every grounds which have been urged in the petition in parawise.

14. The counsel also relies upon Annexure-R1 and also Annexure-R2 in support of statement of objections i.e., B-report and so also the order dated 07.02.2020 passed by the Securities and Exchange Board of India in WTM/AB/EFD-I/DRA-I/47/2019-20. The counsel also brought to notice of this Court

the order wherein reference was made regarding failure to preserve records in paragraph number 9. A notice was given and failed to produce the records and submitted the records sought by the IA were not easily available as the noticee's office was shifted on two occasions during the said time period and taken note of the same and misuse of clients trading account in paragraph 10 and so also failure to transfer the securities to the demat account of the client within the prescribed time period and the same is also taken note of in paragraph 16 and direction was given in paragraph 18.

15. The objections filed in Crl.P.No.1233/2021 by the complainant/respondent is also a similar objections. Along with statement of objections, the counsel also filed the copy of the award dated 05.02.2019 passed by the Arbitral Tribunal and copy of the B-report filed by the Cyber Crime Police Station, Bengaluru. But in both the complaints, set out the same allegations and in the statement of objections, parawise denied the averments of the petitioners.

16. The counsel appearing for respondent No.2 in support of his arguments, relies upon the judgment of the Apex Court reported in **(2018) 3 SCC 104** in the case of

DINESHBHAI CHANDUBHAI PATEL vs STATE OF GUJARAT AND OTHERS and brought to notice of this Court paragraphs 25, 26, 30, 31 and 33. In paragraph 25, a discussion was made with regard to law on the question as to when a registration of the FIR is challenged seeking its passing by the accused under Article 226 of the Constitution or Section 482 of the Code and what are the powers of the High Court and how High Court should deal with such question is fairly well settled. In paragraph 26, relied upon the judgment of **State of W.B. v Swapan Kumar Guha**, had the occasion to deal with this issue. In paragraph 33, while exercising the powers of the High Court, an observation is made that which are obviously not defined being inherent in its very nature, cannot be stretched to any extent and nor can such powers be equated with the appellate powers of the High Court defined in the Code. The parameters laid down by the Apex Court while exercising inherent powers must always be kept in mind else it would lead to committing the jurisdictional error in deciding the case. In paragraph 30 held that while considering the issue of quashing, the High Court could not appreciate the evidence nor could draw its own inferences from the contents of the FIR and the material relied on. It was more so when the material relied on was disputed by the complainants and vice versa. In such a situation, it becomes the job of the Investigating Authority at such stage to probe and then of the court to examine the questions once the charge sheet is filed along with such material as to how far and to what extent reliance can be placed on such material. In paragraph 31 held that once the court finds that FIR does disclose prima facie commission of any cognizable offence, it should stay its hand and allow the Investigating machinery to step in to initiate the probe to unearth the crime in accordance with the procedure described in the Code.

17. The counsel also relies upon the judgment of this Court passed in **Crl.P.No.6248/2020 dated 23.03.2021**, wherein this Court declined to quash the proceedings relying upon the judgment of the Apex Court in the case of **Dineshbhai Chandubhai Patel** referred supra. The counsel also relied upon the judgment of this Court passed in **Crl.P.No.200628/2021 dated 09.11.2021** wherein also this Court declined to quash the proceedings relying upon the said Apex Court judgment referred supra.

18. Having heard the learned counsel appearing for the respective parties and also on perusal of the material on record and also considering the principles laid down in the judgments referred supra by the counsel for respondent No.2/complainant, the Points that would arise for the consideration of these petitions are:

1. Whether the petitioners have made out the grounds to quash the proceedings in Cr.No.180/2018 invoking Section 482 of Cr.P.C?
2. Whether the petitioners have made out the grounds to quash the proceedings in Cr.No.404/2018 invoking Section 482 of Cr.P.C?
3. What Order?

<u>Point Nos.1 and 2:</u>

19. Having considered the allegations made in the complaint at Annexure-B in respect of Crime No.180/2018 is concerned, though complaint is in detail stating that the petitioners are the agent and brokers and agreed to give profit and opened the account of the complainant in the petitioners' company and they made the transaction through the company in 2012 and purchased the shares of different companies. While

doing such transaction, fraudulently, gave wrong account and collected more money continuously and thereby cheated the complainant and indulged in creation of fake document and furnished the same to the BSE and signatures on the said fake documents are not belongs to the complainant, thus, caused the loss to the complainant.

20. In respect of other Crime No.404/2018 is concerned, in Annexure-B complaint, the similar allegations are made as that of Crime No.180/2018. The allegation of conspiracy is also alleged and pretended that they would get more profit and in this regard, they collected the amount of Rs.7,49,73,549/- and also indulged in creating of fake documents of complainant and they have not given any profit and cheated the complainant. Hence, in this complaint also offences under Sections 409, 420, 468, 471 and 120B are invoked.

21. No doubt, the petitioners have also produced documents of notices issued by the police in both the petitions and they were produced at Annexures. The dispute was raised before the Arbitration and Arbitration award was also passed with regard to the claim. The documents evidenced the fact

that the issue between the parties also urged before the Arbitration and so also the Appellate Tribunal and the same is also not in dispute.

22. The court, at the same time, also take note of the fact that when the complaint was filed and specific accusations are made at Annexure-B in both the cases stating that Broker, SIC Stocks and Services Pvt. Ltd., its Directors have willfully and dishonestly made wrongful claim to themselves and caused wrongful loss to them by various criminal acts indulging in creating fake documents and forgery and made use of the same and so also basic mismatch of contract notes sent also particularly pleaded in the complaint and illegal charges are mentioned and misappropriated and not giving the true contract notes and causing of monetary loss is pleaded. In the complaint at Annexure-B in both the cases, offence of 420 and creation of document and forgery for purpose of cheating is alleged and used those documents as genuine. When such allegations are pleaded, the matter requires investigation.

23. The Court also to take note of the principles laid down in the judgments referred supra which have been relied upon by the counsel appearing for the respondent/complainant.

No doubt, the grounds which have been urged in both the petitions that dispute is in a civil in nature and pertains to commercial transactions which is required to be resolved as per SEBI guidelines by approaching within the stipulated time. It is contended that claim is also time barred. Whether it is a time barred or not to be considered by the Investigating Officer. It is the duty of the Investigating Officer to see that whether criminal prosecution could be invoked considering the offences and Investigating Officer has to examine the same under Section 468 of Cr.P.C.

24. The other allegation is that Company is not in existence and claim is also made belatedly, though the transaction is of the year 2012-13 and complaint is filed in 2018. This fact is also to be considered by the Investigating Officer.

25. The other allegation that the information was got through an ex-employee and indulged in such act by the complainant. It is the contention of the complainant that the same is taken only with an intention to get the details. Civil suit pending is not a ground to quash the proceedings initiated against the petitioners. The allegation in the complaint is in

respect of the criminal acts of cheating as well as the forgery and in the civil case, the same cannot be adjudicated by the court. The same can be investigated by the Investigating Officer. It is also a settled law that while exercising the powers under Section 482 of Cr.P.C, the court cannot take the defences into consideration and also cannot even rely upon the accused documents since the Investigating Officer has to unearth the truth if complaint does discloses committing of an offence. When such specific allegations of cheating; creation of fake documents; misusing of fake documents; not sharing the profit; not giving any contract notes and defrauding the complainant, the same cannot be considered in a civil dispute as contended by the petitioners. Hence, in keeping the principles laid down in the case of **DINESHBHAI CHANDUBHAI PATEL** referred supra and particularly considering paragraphs 25 and 26 and also paragraphs 30 and 31 and scope of the High Court also, it is the duty of the Investigating Officer to unearth the crime during the course of investigation. If no such crime was found in the investigation, the Investigating Officer will set free the petitioners. Having considered the allegations made in Annexure-B of both the complaints and offences which have been invoked against these petitioners, I am of the opinion that the petitioners have not made out of any grounds to quash the proceedings initiated against them invoking Section 482 of Cr.P.C. The Court also cannot evaluate the evidence while considering the contents of the document either the complainant as well as the accused when the prayer is sought for quashing of FIR. The registration of the case itself, law is set in motion to investigate the matter and the High Court cannot exercise its power curbing the said powers and it is the duty of the Investigating Officer to unearth the crime and it is not the domain of the Court to intervene and venture to curb the investigation when specific allegations are made and ingredients are found in the complaint. Hence, I answered the above Points as negative.

Point No.3:

26. In view of the discussions made above, I pass the following:

ORDER

Both the petitions are dismissed.

Sd/-
(H.P.SANDESH)
JUDGE

MD/SN